

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2000-327-C - ORDER NO. 2001-061
JANUARY 18, 2001

IN RE: Consumer Advocate for the State of South Carolina,)	
)	
Complainant/Petitioner,)	
)	
vs.)	ORDER DENYING
)	PETITION FOR
Verizon South, Inc. (f/k/a GTE South, Inc.),)	RECONSIDERATION
)	
Defendant/Respondent)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Petition for Reconsideration of our Order No. 2000-1000 filed by the Consumer Advocate for the State of South Carolina (the Consumer Advocate). Verizon South Inc. (Verizon or the Company) (formerly known as GTE South Inc.) has also filed a Return to the Petition.

The Consumer Advocate notes that in Order No. 2000-1000, dated December 13, 2000, the Commission dismissed the Consumer Advocate's request for a review of Verizon's rates, charges, and earnings on the ground that the company's election of alternative regulation left the Commission with no ability to make rate adjustments. In support of this finding, we cited a prior decision memorialized in Order No. 2000-030 in Docket No. 1999-178-C, which came to a similar result.

The Consumer Advocate attempts to contrast the issues in Docket No. 1999-178-C with those found in the present case. In its Petition in Docket No. 1999-178-C, the Consumer Advocate requested that the Commission conduct an earnings review, and provide for refunds and rate reductions going forward. In the present case, the Complaint did not request that any rates be changed. Accordingly, the Consumer Advocate asserts that the company's election of regulation under Section 58-9-576 is irrelevant to the relief sought in the Complaint. The Consumer Advocate states that he does not seek to change any present rate or rate of return in this case, but seeks a review of the company's rates and the status of its earnings to aid the Commission in its consideration of issues related to the proposed intrastate universal service fund (USF). The Consumer Advocate's view is that the Commission must review Verizon's earnings prior to allowing any rate change requests or withdrawals from the USF, so as not "to prop up any excess earnings that the Company may be experiencing." We believe that the Consumer Advocate's attempt to differentiate the two situations is unavailing, as shall be discussed below.


Verizon filed a Return to the Consumer Advocate's Petition. Among other things, Verizon states that the Consumer Advocate's Petition attempts to have the Commission unlawfully engage in "rate of return or rate base monitoring" in direct violation of S.C. Code Ann. Section 58-9-576(B)(2), in light of the specific request for "a review of the company's rates and the status of its earnings." Verizon further states that its lawful election of alternative regulation under this statute precludes the rate of return and rate base monitoring that the Consumer Advocate seeks.

We agree with Verizon in principle, and we deny the Consumer Advocate's

Petition. We agree that Section 58-9-576(B)(2) prohibits a review of the company's rates and the status of its earnings, even when no refunds or going-forward rate reductions are requested, and even in consideration of matters concerning the Universal Service Fund. The language of the statute is explicit: "On the date a LEC notifies the commission of its intent to elect the plan described in this section, existing rates, terms, and conditions for the services provided by the electing LEC contained in the then-existing tariffs and contracts are considered just and reasonable." There are no stated exceptions to this statute. We believe that the statute prohibits the review of rates and therefore, earnings for any purpose, including purposes concerning the Company's ability to withdraw funds from the Universal Service Fund. We also agree with Verizon that under alternative regulation, the concept of "excess earnings" is irrelevant. The Consumer Advocate's Petition must be denied.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)